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U.S. Small Business Administration

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STATEMENT OF
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BEFORE THE
SMALL BUSINESS SUBCOMMITTEE
ON MINORITY ENTERPRISE, FINANCE
AND URBAN DEVELOPMENT
HOUSE OF REPRESENTATIVES
ON DISCRIMINATION IN TELECOMMUNICATIONS

May 20, 1994

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Mr. Chairman and members of the Subcommittee, thank you for inviting me to testify at your hearing on "Discrimination In Telecommunications." You asked the U.S. Small Business Administration (SBA) to address its recent proposal to repeal the opinion molder rule and the implication this will have for minority firms seeking credit in the media industry. You also asked us to provide data on the Agency's financial assistance to minority owned firms in the telecommunications industry from 1989 to 1994 and to provide statistics on the total number and size of firms owned and controlled by minorities operating in the telecommunications industry for the same time period.

Opinion Molder Rule

On April 5, 1994, the SBA published a proposed rule, that if adopted as a final regulation, will allow the Agency to provide financial assistance to small business owners engaged in the media industry. The comment period for this proposed rule ends today.

The SBA believes that it is timely to consider major substantive changes in the media policy rule. Under our present regulatory policy, no business loan may be made to an applicant engaged in the creation, origination, expression, dissemination, propagation or distribution of ideas, values, thoughts, opinions or similar intellectual property, regardless of medium, form or content. Over the years, there have been several express

exceptions to this prohibition. As an example of these exceptions, we have made loans to commercial or job printers and publishers of shoppers newspapers if they consisted of only advertising material, without editorial, narrative or filler articles. Cable TV systems have been allowed to borrow from the SBA when they passively receive and transmit broadcast signals without selective judgements of programs transmitted. Any system that operates a live channel has been found to be ineligible.

We have also found general merchandise stores that sell books, magazines, newspapers, tapes, records, and general book or record stores that carry a wide variety of material to be eligible under the present rules. However, assistance is not available to specialty book or videotape stores which sell or rent items in a single or limited subject area. The rationale underlying the distinction between general and specialty stores has been that a general store covers a broad range of ideas, values and thoughts, rather than a particular or narrow set of ideas or values. At times, these distinctions have been very difficult to make.

Academic schools are ineligible, but technical, secretarial, vocational and trade schools have been eligible. Nursery, kindergarten and pre-schools have been eligible if they are not primarily engaged in teaching academic subjects.

This media policy was originally adopted by SBA in 1953 when the Agency was first created. The predecessor to the SBA, the Reconstruction Finance Agency, had a similar media policy rule.

There were several reasons for the media policy rule. First, the prohibition sought to avoid any possible accusation that the Government was attempting to control editorial freedom by subsidizing the media or communications for political or propaganda purposes. Second, the Agency has generally sought to avoid Government identification through its business assistance programs with concerns that might publish or produce matters of a religious or controversial nature. Finally, the SBA was concerned that the constitutionally protected rights of freedom of speech and press might otherwise be compromised either by the fear of Government reprisal or by the expectation of Government financial assistance.

The SBA no longer regards these fears as real concerns. In our view, they do not give rise to compelling reasons to deny necessary financial assistance to otherwise eligible small business concerns. Our mission at the SBA is to create jobs and promote economic development. This should be our focus in determining where financial assistance should be directed.

Many individual members of Congress have expressed concern with the substance of SBA's regulations in this area. Several

bills have been introduced to deal with the rule legislatively, although none have been enacted. Some of these bills are referred to in our Proposed Rules publication in the Federal Register.

The SBA is aware that small businesses in the media industry often have difficulty in raising capital or borrowing money. Interestingly, the media policy rule applicable to the financing of business loans has not been applicable to assistance provided by Small Business Investment Companies (SBICs), which are licensed by the SBA. Thus, SBICs are permitted to help businesses engaged in the media. The policy surrounding SBIC assistance to media concerns was similar to the approach taken by the Congress in funding broadcasting through the nonprofit Corporation for Public Broadcasting. The SBICs operate within SBA regulations, but their transactions with small companies are private arrangements which carry no SBA guaranty. Their funding comes from private, SBA and other nonprivate sources.

The SBA also has been making physical injury disaster loans to media concerns and academic schools since 1953, based on humanitarian grounds. The disaster loan program attempts to restore to an injured party that which was lost due to circumstances beyond its control. No distinction is made for eligibility purposes between media and non-media concerns for

physical disaster loans, but economic injury disaster loans are subject to the limitations of the media policy rule.

The SBA believes that the assistance it presently makes available under the exceptions to the current media policy rule and under the SBIC and Disaster Assistance programs are not sufficient to assist small businesses in the media industries, which are in need of increased aid. Accordingly, the SBA has proposed to repeal the present media policy rule to help make assistance available to creditworthy small businesses. It will be an open process subject to scrutiny by the public and the Congress.

By adopting the proposed rule, the SBA believes it will be better able to assist in bringing new opportunities for minority-owned and women-owned businesses. Adoption of the proposed rule will, among other things, allow media companies to invest in new infrastructure such as advanced television systems for broadcasters and digital compression technology for cable operators.

Although the Agency has not yet reviewed in depth each response from the public regarding our proposed rule, we can tell you at this point that the vast majority of responses support us adopting the rule. We expect to make our final decision on the rule change within the next 60 days.

SBA Financial Assistance

Attached to my statement for the record is a report on the SBA's 7(a) General Business Loan Guarantee approvals by ethnic code for small businesses in the telecommunications industry from Fiscal Year (FY) 1989 to date. The total number of loans has increased from 37 in 1989, to 65 in 1993 to 44 in FY 1994 to date. The total dollar amount guaranteed by the SBA, increased from \$5.8 million in FY 1989 to \$15.1 million in FY 1993. In FY 1994 to date, the total dollar amount is \$8.5 million.

Loan guarantees to minority owned businesses in the telecommunications industry for this time period were disappointing. For FY 1989, a total of eight loans were guaranteed and in FY 1993 this amount increased to 10 loan guarantees. As you know, increasing minority business participation in all programs and services is a major policy objective of this Administration, and increased participation by minorities is part of Administrator Bowles' performance contract with President Clinton and part of each District Director and Department Head's performance agreement with Administrator Bowles. This firm commitment combined with the repeal of the opinion molder rule will improve minority participation in the telecommunications industry.

[For a breakdown of the Standard Industrial Codes (SIC) used to develop this report, see the attached page from the Standard Industrial Code Manual for 1987].

Statistics on Minority Firms In Telecommunications

The SBA does not collect data on the number of minority firms in telecommunications. The Federal Communications Commission (FCC) has collected information on the number of minorities employed in the telecommunications industry. The National Telecommunications Information Administration (NTIA) has collected data on minority broadcast ownership interest. I understand Assistant Secretary Larry Irving of NTIA is also testifying on this panel and is providing more detailed information on this topic.

According to an analysis by NTIA, there are 11,021 broadcast stations licensed in the United States. Of those, only 300 are owned by minorities or approximately 2.7 percent. A complete chart of the statistics is attached.

Mr. Chairman, let me again thank you for the opportunity to appear before you today on this very important issue. I will be happy to answer any questions you may have.

16 MAY 1994
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BUSINESS LOAN APPROVALS
AS OF 04/30/94

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FISCAL YEAR	ETHNIC CODE	NO. LOANS	TOTAL AMOUNT	SBA AMOUNT
89	0	1	0	0
89	1	2	100,000	90,000
89	3	3	405,164	304,648
89	4	1	0	0
89	6	1	0	0
89	7	29	6,421,992	5,419,002
TOTAL FY:	89	37	6,927,156	5,813,650
90	0	1	110,000	99,000
90	3	1	90,000	81,000
90	6	1	356,600	303,110
90	7	39	7,239,598	6,047,038
TOTAL FY:	90	42	7,796,198	6,530,148
91	0	1	561,000	448,800
91	2	1	130,000	117,000
91	3	1	15,000	15,000
91	6	2	825,000	682,500
91	7	32	6,298,381	5,079,399
TOTAL FY:	91	37	7,829,381	6,342,699
92	0	2	40,000	36,000
92	3	2	0	0
92	4	2	104,000	93,600
92	6	1	0	0
92	7	60	14,105,332	11,467,209
TOTAL FY:	92	67	14,249,332	11,596,809
93	0	3	361,000	322,880
93	1	1	35,000	31,500
93	3	2	125,000	120,000
93	6	4	1,016,600	844,872
93	7	55	16,746,295	13,734,674
TOTAL FY:	93	65	18,283,895	15,053,926
94	0	1	10,000	9,000
94	4	1	250,000	175,000
94	6	1	180,000	126,000
94	7	41	10,231,643	8,204,257
TOTAL FY:	94	44	10,671,643	8,514,257
OVERALL:		292	65,757,605	53,851,489

Code	Racial/Ethnic Category
0	BLACK - A person having origins in any of the black racial groups of Africa.
1	PUERTO RICAN - A person of Puerto Rican origins, regardless of race.
2	AMERICAN INDIAN - A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliations or community recognition.
3	HISPANIC (other than Puerto Rican) - A person of Mexican, Central or South American or other Spanish culture or origin regardless of race.
4	ASIAN or PACIFIC ISLANDER - A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or Pacific Islands. This area includes, for example, China, India, Korea, the Philippine Islands, and Japan.
5	ENGLISH and ALPINE - A person having origins in any of the original peoples of Alaska and Aleutian Islands.
6	UNRECORDED
7	WHITE - A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.
8	MULTI GROUPS - This code shall be used only for minority enterprises where partnership or corporate ownership/partnership is: 51% or greater for the total of all minority groups (code 0 through 5) comprising the partnership or corporation, but individually less than 51% for each of these groups. Example: Partnership consists of: 1 Hispanic (33-1/3%), 1 Asian (33-1/3%), and 1 White (33-1/3%). This would constitute "multi-group" category, inasmuch as it is 66-2/3% minority owned.

This major group includes establishments furnishing point-to-point communications services, whether intended to be received aurally or visually; and radio and television broadcasting. This major group also includes establishments primarily engaged in providing paging and beeper services and those engaged in leasing telephone lines or other methods of telephone transmission, such as optical fiber lines and microwave or satellite facilities, and reselling the use of such methods to others. Establishments primarily engaged in furnishing telephone answering services are classified in Services, Industry 7389.

Industry Group No.	Industry No.
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481 TELEPHONE COMMUNICATIONS

4812 Radiotelephone Communications

Establishments primarily engaged in providing two-way radiotelephone communications services, such as cellular telephone services. This industry also includes establishments primarily engaged in providing telephone paging and beeper services and those engaged in leasing telephone lines or other methods of telephone transmission, such as optical fiber lines and microwave or satellite facilities, and reselling the use of such methods to others. Establishments primarily engaged in furnishing telephone answering services are classified in Services, Industry 7389.

Beeper (radio pager) communications services
Cellular telephone services

Paging services: radiotelephone
Radiotelephone communications

4813 Telephone Communications, Except Radiotelephone

Establishments primarily engaged in furnishing telephone voice and data communications, except radiotelephone and telephone answering services. This industry also includes establishments primarily engaged in leasing telephone lines or other methods of telephone transmission, such as optical fiber lines and microwave or satellite facilities, and reselling the use of such methods to others. Establishments primarily engaged in furnishing radiotelephone communications are classified in Industry 4812, and those furnishing telephone answering services are classified in Services, Industry 7389.

Data telephone communications
Local telephone communications, except radio telephone
Long distance telephone communications

Voice telephone communications, except radio telephone

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TELEGRAPH AND OTHER MESSAGE COMMUNICATIONS

4822 Telegraph and Other Message Communications

Establishments primarily engaged in furnishing telegraph and other nonvoal message communications services, such as cablegram, electronic mail, and facsimile transmission services.

Cablegram services
Electronic mail services
Facsimile transmission services
Mailgram services
Photograph transmission services
Radio telegraph services

Telegram services
Telegraph cable services
Telegraph services
Teletypewriter services
Telex services

group includes establishments furnishing point-to-point communications services to be received aurally or visually; and radio and television broadcasting group also includes establishments primarily engaged in providing paging services and those engaged in leasing telephone lines or other methods of telephone transmission, such as optical fiber lines and microwave or satellite facilities, and reselling the use of such methods to others. Establishments primarily engaged in furnishing services are classified in Services, Industry 7389.

TELEPHONE COMMUNICATIONS

Radiotelephone Communications

Establishments primarily engaged in providing two-way radiotelephone communications services, such as cellular telephone services. This industry also includes establishments primarily engaged in providing telephone paging and beeper services and those engaged in leasing telephone lines or other methods of telephone transmission, such as optical fiber lines and microwave or satellite facilities, and reselling the use of such methods to others. Establishments primarily engaged in furnishing telephone answering services are classified in Services, Industry 7389.

Beeper (radio pager) communications services
Cellular telephone services

Paging services: radiotelephone
Radiotelephone communications

Telephone Communications, Except Radiotelephone

Establishments primarily engaged in furnishing telephone voice and data communications, except radiotelephone and telephone answering services. This industry also includes establishments primarily engaged in leasing telephone lines or other methods of telephone transmission, such as optical fiber lines and microwave or satellite facilities, and reselling the use of such methods to others. Establishments primarily engaged in furnishing radiotelephone communications are classified in Industry 4812, and those furnishing telephone answering services are classified in Services, Industry 7389.

Data telephone communications
Local telephone communications, except radio telephone
Long distance telephone communications

Voice telephone communications except radio telephone

TELEGRAPH AND OTHER MESSAGE COMMUNICATIONS

Telegraph and Other Message Communications

Establishments primarily engaged in furnishing telegraph and other message communications services, such as cablegram, electronic mail, facsimile transmission services.

Cablegram services
Electronic mail services
Facsimile transmission services
Mailgram services
Photograph transmission services
Radio telegraph services

Telegram services
Telegraph cable services
Telegraph services
Teletypewriter services
Telex services

4832 Radio Broadcasting Stations

Establishments primarily engaged in broadcasting aural programs by radio to the public. Included in this industry are commercial, religious, educational, and other radio stations. Also included here are establishments primarily engaged in radio broadcasting and which produce radio program materials. Separate establishments primarily engaged in producing radio program materials are classified in Services, Industry 7922.

Radio broadcasting stations

4833 Television Broadcasting Stations

Establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services. Included in this industry are commercial, religious, educational, and other television stations. Also included here are establishments primarily engaged in television broadcasting and which produce taped television program materials. Separate establishments primarily engaged in producing taped television program materials are classified in Services, Industry 7812. Establishments primarily engaged in furnishing cable and other pay television services are classified in Industry 4841.

Television broadcasting stations

CABLE AND OTHER PAY TELEVISION SERVICES

4841 Cable and Other Pay Television Services

Establishments primarily engaged in the dissemination of visual and textual television programs, on a subscription or fee basis. Included in this industry are establishments which are primarily engaged in cablecasting and which also produce taped program materials. Separate establishments primarily engaged in producing taped television or motion picture program materials are classified in Services, Industry 7812.

Cable television services
Closed circuit television services
Direct broadcast satellite (DBS) services
Multipoint distribution systems (MDS) services

Satellite master antenna systems (SMATV) services
Subscription television services

COMMUNICATIONS SERVICES, NOT ELSEWHERE CLASSIFIED

4899 Communications Services, Not Elsewhere Classified

Establishments primarily engaged in furnishing communications services, not elsewhere classified. Establishments primarily engaged in providing on-line information retrieval services on a contract or fee basis are classified in Services, Industry 7375.

Radar station operation
Radio broadcasting operated by cable companies
Satellite earth stations

Satellite or missile tracking stations, operated on a contract basis
Tracking missiles by telemetry and photography on a contract basis

A STATISTICAL ANALYSIS OF MINORITY-OWNED COMMERCIAL BROADCAST STATIONS LICENSED IN THE UNITED STATES IN 1993

INDUSTRY TOTALS	BLACK	HISPANIC	ASIAN	NATIVE AMERICAN	MINORITY TOTALS
AM Stations 4,950	110 2.2%	63 1.3%	0 0%	2 0%	175 3.5%
FM Stations 4,920	71 1.4%	22 .4%	2 .0%	3 .1%	98 2.0%
TV Stations 1,151	19 1.7%	7 .6%	1 .1%	0 0%	27 2.3%
Cumulative Totals* 11,021	200 1.8%	92 .8%	3 0%	5 0%	300 2.7%

- Industry totals based on information from the Federal Communications Commission, Office of Public Affairs, August 31, 1993.
- All figures are rounded to the nearest tenth percent.